

# **EXHIBIT F**

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 PHILIPS AMADOR, et al.,

4 Plaintiffs,

5 v.

11 CV 4326 (RJS)

6 MORGAN STANLEY & CO. LLC,  
7 et al.,

8 Defendants.

9 New York, N.Y.  
10 December 19, 2014  
10:10 a.m.

11 Before:

12 HON. RICHARD J. SULLIVAN,

13 District Judge

14 APPEARANCES

15 KLAFTER OLSEN & LESSER LLP  
Attorneys for Plaintiffs

16 BY: SETH R. LESSER  
-AND-

17 SHAVITZ LAW GROUP PA  
18 BY: GREGG I. SHAVITZ

19 MORGAN LEWIS & BOCKIUS LLP  
Attorneys for Defendants  
20 BY: THOMAS A. LINTHORST

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1           The reasonableness of the plan of allocation is the  
2     next issue I need to consider. This strikes me as a very  
3     straightforward and reasonable allocation plan. It's based on  
4     basically the number of weeks worked by each class member,  
5     based on records that are pretty reliable records. That's not  
6     always true in Fair Labor Standards Act cases, but in this case  
7     it seems to me the records are quite reliable, certainly more  
8     reliable than most settlements involving these types of cases.  
9     So I think it's a reasonable and appropriate distribution  
10    method.

11           The named plaintiffs will each get \$10,000 as a  
12    recognition payment for their additional efforts. The opt-in  
13    plaintiffs who were deposed are, under this agreement, entitled  
14    to a \$7,500 premium. I think those are both reasonable  
15    amounts, and some courts approve more than that. I think  
16    that's right. Sometimes I do worry when there's too much of a  
17    kicker in some of these cases, but this strikes me as in the  
18    middle of a fairway and appropriate in light of the fact that  
19    somebody has to get these things going and somebody has to take  
20    the lion's share of the burden with respect to depositions and  
21    that kind of thing. So I think that's appropriate.

22           The adequacy of the notice? I've already passed on  
23    that. I have no reason to think that I was wrong before, and,  
24    given the figures that Mr. Lesser has shared with me today, I  
25    think it confirms my view that the method of notice was

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1 appropriate.

2           So I think I'm prepared to approve the class action.  
3 I guess the New York class action, the collective action  
4 settlement, has a different set of standards under the Lynn's  
5 Food Stores versus United States standards set forth. That's  
6 an Eleventh Circuit case but has been widely adopted here in  
7 this circuits. Again, it's a slightly different articulation  
8 as to what makes something reasonable, but for the same reasons  
9 I've already discussed, I find that the settlement is  
10 reasonable with respect to the Fair Labor Standards Act claims.

11           That then takes us to attorneys' fees. The attorneys'  
12 fees here are 1.4 million, which is one-third of the  
13 settlement, as well as the costs or expenses that was expended,  
14 which is a little over \$100,000, plus then another \$118,000 for  
15 the administration of the settlement. That strikes me as not  
16 unreasonable, not unusual, for lawyers in cases like this, to  
17 get a third, given the amount of time that was spent here,  
18 according to counsel's representations. The hourly rate comes  
19 to sort of under \$400 an hour, in the 390 range, which is not  
20 outside of the ballpark of where these cases do get compensated  
21 at. Also, the bottom line is, there was generally a  
22 recognition that one-third is not too high for cases like this,  
23 and I think that's right. It's important that lawyers have  
24 incentives to bring cases like this, and I think this  
25 settlement is in line with that. And I think pointedly and

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1 importantly, there have been no objections from class members  
2 at this point, so they seem to be okay with it, and I don't see  
3 any reason for me to tell them they should be upset when  
4 they're not.

5 It's a big class, we're not talking about a handful of  
6 people who may not speak English and may have citizenship or  
7 residency issues that make them less likely to come forward or  
8 object. These are a class of plaintiffs who are pretty  
9 sophisticated and educated, able to communicate, and I think if  
10 they had objections, at least some of them would have come  
11 forward, and none have. So in light of that, I'm prepared to  
12 find that the attorneys' fees and expenses here are reasonable.

13 So I think, for some of these same reasons, also under  
14 the Grinnell factors -- the risks here, the complexity of the  
15 case, the quality of the representation, public policy  
16 concerns -- I'm satisfied that the fairness of the fee has been  
17 explained and justified.

18 So with that, then, I will approve the settlement.  
19 I'll issue that order later today. It will probably get  
20 docketed today or Monday.

21 Is there anything else I should be thinking about or  
22 that we need to cover today?

23 MR. LESSER: I don't believe so. You probably  
24 mentioned this in passing. I just want to make sure that you  
25 did approve the claims administrator cost of 118.

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1 THE COURT: Yes.

2 MR. LESSER: I knew you mentioned it.

3 THE COURT: Yeah, 118 and --

4 MR. LESSER: 118 flat.

5 THE COURT: Oh, it is?

6 MR. LESSER: Yes.

7 THE COURT: So I will approve that. That's not  
8 unusual. Certainly Garden City Group is kind of the gold  
9 standard for these things, and that's what it costs, and it's  
10 not an unreasonable cost.

11 I should give the defendants an opportunity to speak,  
12 though of course a fairness hearing is never really about  
13 whether it's fair to the defendant. The law is less concerned  
14 about defendants in these contexts. The Court's role is to  
15 make sure that the plaintiffs are not getting a raw deal  
16 because of the nature of class actions and because of the  
17 nature of labor disputes in particular, for the Fair Labor  
18 Standards Act. So I think we have covered those issues  
19 already, from the plaintiffs' perspective, but if the defendant  
20 wants to weigh in and speak on anything, I'm happy to hear you.

21 MR. LINTHORST: I have nothing, your Honor.

22 THE COURT: Okay.

23 All right. Chris, do we have a Word version of the  
24 order, the proposed order -- did you send us a proposed order?

25 MR. LESSER: We did.